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DISASTER RELIEF ACT AMENDMENTS OF 1982

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Mr. MURKOWSKI, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S. 2250]

The Committee on Environment and Public Works, to which was referred the bill (S. 2250) to amend the Disaster Relief Act of 1974, and for other purposes having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

BACKGROUND AND GENERAL STATEMENT

In 1950 the Congress enacted the first disaster relief program to provide permanent statutory authority for the President to declare a "major disaster", setting in motion a program of Federal assistance. Prior to 1950 assistance was provided only in response to specific congressional action for each disaster.

The 1950 program authorized the President to provide assistance for the temporary repair of local governments' public facilities. Subsequent laws [1] have extended this assistance to include individuals and State governments and have broadened the extent of coverage to in-

[1] In this period Congress adopted three basic laws, the Disaster Relief Acts of 1950 (P.L. 81-875), of 1970 (P.L. 91-606) and of 1974 (P.L. 93-288). Amendments to the 1950 Act were passed in 1951 (P.L. 82-107), in 1953 (P.L. 83-134), in 1955 (P.L. 84-71), in 1962 (P.L. 87-502), in 1966 (P.L. 89-769) and in 1969 (P.L. 91-79). The 1970 Act was amended in 1971 (P.L. 92-209) and in 1972 (P.L. 92-318 and 92-385), and the 1974 Act was extended for three years in 1977 (P.L. 95-51). In addition special disaster relief acts were adopted providing assistance in 1964 for damage inflicted by the Alaskan Earthquake (P.L. 88-451) and in 1965 by floods in the Pacific Northwest States (P.L. 89-41) and by a hurricane in the Southeast Gulf States (P.L. 89-339). Aid to elementary and secondary schools for disaster losses was authorized in 1965 (P.L. 89-313) and in 1968 (P.L. 90-247). Other acts not part of the basic disaster relief laws also have provided for flood insurance, loans for disaster losses incurred by homes, businesses and farms, and other types of assistance.

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clude permanent repairs of public facilities and other items. The present law contains a wide range of grants and direct assistance programs for individuals and State and local governments. In 1974 statutory authority was provided to the President to declare an "emergency" as well as a "major disaster."

Nearly all of the more than 600 declarations of major disasters in the past 30 years have been to provide Federal assistance for loss or damage attributable to one or more of the natural causes—such as volcanoes, hurricanes, and earthquakes—set forth in disaster relief laws. Nevertheless, in some instances aid has been extended by the President in situations which resulted primarily, if not entirely, from human activity rather than natural hazards.

The Federal Emergency Management Agency was established in 1979 by Executive Order. It was given authority to coordinate the Federal Government's response to all civil emergencies, whether natural or man-made in origin. In responding to this Executive branch mandate, the agency has had to rely upon the Disaster Relief Act of 1974 as the source of its statutory authority.

The Congress intended the Act to alleviate State and local conditions caused by natural catastrophes. Although non-natural catastrophes are not specifically enumerated by Section 102 of the Act, the phrase "other catastrophes" has been broadly interpreted to justify Federal assistance in response to humanly caused traumatic events. This expansion of legislative intent in the administration of the Disaster Relief Act has provoked recent Congressional concern.

Broadening the scope of the Act to cover both natural and non-natural catastrophes has strained the capacity of programs designed to respond only to natural catastrophes. Within its intended context the Act has functioned relatively well. It is comprehensive and flexible legislation, well-suited to handle the full range of natural disasters for which it was designed. It was not written, however, to respond to the occasionally catastrophic consequences of social, economic, or political activity and establishes no administrative or programmatic mechanisms to do so. For catastrophes of this sort a different emphasis is needed, and altered programs of assistance would have to be provided.

In a report to the Congress (dated December 7, 1981), "Requests for Federal Disaster Assistance Need Better Evaluation," the General Accounting Office recommend that the Congress clarify the types of incidents which may receive disaster or emergency assistance under the Act in order to improve Executive Branch administration of relief efforts.

The purposes of this bill are to clarify statutory authorities, to provide legislative sanction to the Federal Emergency Management Agency, and most importantly, to tailor the Act so that Federal responses to catastrophes of all types will be appropriate and adequate.

The Disaster Relief Act states that Federal disaster assistance is "to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby." As a prerequisite to a declaration of major disaster by the President a Governor ". . .

shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proposition) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster."

There are numerous problems associated with a determination of the "reasonableness" of State and local government commitments. To overcome these problems, the Federal Emergency Management Agency adopted in May 1980 a cost-sharing policy for permanent restorative work on public facilities and for debris removal whereby the State and local governments finance 25 percent of the costs and the Federal Government bears the remaining 75 percent. The same cost-share formula applies to certain eligible private nonprofit organizations. In 1981 the Administration requested legislation to codify this cost-sharing formula. Two bills were introduced on behalf of the Administration in the first session of the 97th Congress, S. 1216 and S. 1217.

S. 2250 incorporates the cost sharing formula. An established cost sharing mechanism will obviate the administrative problems associated with determining a reasonable State and local commitment for each disaster, and it will also assure compliance with the statutory purpose that Federal aid be supplemental.

The bill provides that the Federal government may advance or loan the nonfederal share under compelling circumstances, such as the occurrence of an overwhelmingly catastrophic event or repeated disasters affecting the same jurisdiction.

It has been eight years since the disaster relief legislation has been amended in a comprehensive fashion. The bill makes numerous additional changes to the 1974 Act which are explained elsewhere in this report.

Major Provisions

DEFINITION OF MAJOR DISASTER

The bill makes a significant change in the definition of "major disaster" in order to clarify Congressional intent about the type of incidents which the President may declare as such. The redefinition of "major disaster" would permit the President to declare catastrophes which are expressly enumerated in the definition and, in the case of catastrophes not specifically identified, only those resulting from "natural" causes.

FEDERAL EMERGENCY ASSISTANCE PROGRAMS

Sections 3 and 4 provides new authority for the Federal Government to provide coordinated, supplemental assistance for the purposes of saving lives and protecting property, public health and safety for a broad range of incidents, both natural and non-natural. This authority is provided, with significant limitations, by the redefinition of "emergency" in section 3 and the inclusion of a new title V, "Federal Emergency Assistance Programs."

An emergency is defined as "any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe in any part of the United States."

A declaration of "emergency" would be made by the President on the request of the Governor. The Governor's request would have to be supported by information similar to information currently required for "major disaster" requests.

Following a declaration, the President could use the authorities of the new title V to ensure the coordinated provision of emergency assistance; however, such assistance may be provided only in accordance with strict limitations. The President could use the authorities of section 502 to (A) direct Federal agencies to provide emergency assistance under their own authorities and without reimbursement from disaster relief funds; (B) coordinate Federal agency and voluntary relief organization assistance and coordinate with State and local officials; and (C) provide technical and advisory assistance to State and local governments.

In the event assistance provided under section 502 is insufficient to adequately supplement the efforts and resources of State and local governments, under section 503 the President may provide emergency assistance and debris removal assistance to save lives and protect property, public health and safety, but he may not provide assistance for permanent restorative work or recovery. However, no funds appropriated to carry out this Act may be expended on such emergency assistance under section 503 where other federal assistance is available and adequate.

If such alternative assistance is inadequate, funds for direct assistance may be provided from appropriated accounts to carry out this Act, but such emergency assistance is limited to $5 million per emergency under section 503(c), except in accordance with section 503(d). Section 503(d) provides that the President may determine that additional emergency assistance is required and may approve continuation of that assistance. If such a determination were made, the President would be required to report to the Congress and to propose additional legislation, if necessary, to take care of the situation.

The authorities of title V permit the Government to provide needed life-saving, public health, safety and property-protecting measures in a broad range of incidents. The Administration could then, in a more deliberate manner, determine whether to provide continuing assistance and, if so, identify the proper authorities under which to provide it. For unusual types of civil emergencies for which adequate response authorities do not exist, the Administration and the Congress, as a result of enactment of the new title V, would have more time to design and enact legislation specifically tailored to the problem instead of relying upon the Disaster Relief Act of 1974 which was written to respond to a specific class of natural catastrophes for which the Act was tailored.

The combined effect of the changes to the definitions of "major disasters" and "emergency" is to establish separate statutory authorities for dealing with two distinct types of situations. The bill restruc-

tures a number of provisions of the 1974 Act in order to make these separate authorities unambiguous for anyone who reads the Act. Under the reorganization, title III contains all the administrative provisions which would apply to both major disasters and emergencies. The amended title IV contains all the program authorities for the Federal Government to provide assistance as a result of a major disaster. The new title V provides all the program authorities for the Federal Government to provide limited assistance for a broadened range of civil emergencies in order to save lives and protect property, public health and safety.

STATE AND LOCAL COST-SHARE

A major feature of the bill incorporates the requirement that State and local governments and eligible, private nonprofit organizations share the cost of permanent restorative work and debris removal at the rate of 75 percent Federal, 25 percent nonfederal. This change in the statute assures the supplemental nature of Federal aid which is a cardinal principle of the underlying Act. It will allay the problem of ascertaining the appropriate or "reasonable" commitment on the part of nonfederal entities which is required under the Act.

The cost-sharing provision should have the practical effect of making grantees more cost conscious and prudent in their demands and in their assessments of needs. They should also be more cost effective and may exercise tighter financial controls over planning and construction because they will have a stake in the long-term costs related to disaster projects.

FLOOD INSURANCE

Section 314 of the Disaster Relief Act is amended to deny Federal assistance to State and local governments for the repair or replacement of their public facilities to the extent that damage for which assistance is requested could have been compensated by reasonably available, adequate and necessary flood insurance. The Committee is informed that in some cases governmental jurisdictions have made a deliberate decision not to insure because Federal financial assistance is available following a catastrophe.

While hazards other than flooding are not covered by this provision, flooding generally encompasses 90 percent of disaster declarations, and there is an established flood insurance program. The Committee will monitor carefully the development of this provision and may consider its extension in the future to other types of disasters or its application to other groups receiving Federal assistance.

TEMPORARY HOUSING

Section 15 makes several changes related to temporary housing. They include the elimination of the *automatic* one-year rent-free period for which temporary housing had been provided. Government housing would now be provided only when adequate, alternative housing is unavailable, and after considering the financial means of the applicant. In addition, Federal financial and operational responsibility for the temporary housing program is limited to 18 months from the date of a declaration. Finally, this section also enables capable and willing

States and local governments to administer the temporary housing program and establishes complete Federal reimbursement of associated costs to encourage them to do so.

RECOVERY OF FUNDS

The bill authorizes the Attorney General to bring suit to recover disaster relief and emergency expenditures from parties who have caused major disasters or emergencies or contributed to the effects of such catastrophes. Section 12 adds a new section 316 to the Act to clarify the authority of the United States to institute such actions.

GRANTS FOR SMALL PROJECTS

The bill expands the so-called "small project grant" provision whereby applicants are eligible to receive a "block grant" for all damaged or destroyed facilities whenever the *cumulative* estimated costs for all projects belonging to the applicant do not exceed $25,000. The new provisions in section 14 permits such grants for each *individual* "small project." Similar provisions are made for emergency work in a major disaster in section 13. These provisions should reduce the burden of administrative costs and delays for small projects. It is estimated that approximately 90 percent of all projects processed, representing less than 10 percent of all funds expended, could be included under the new project grant mechanism created by these changes.

FLEXIBLE FUNDING OPTION

A significant change is made to section 402(f) of the 1974 Act, the so-called "flexible funding" provision. Under 402(f) an applicant may cumulate the estimated cost of replacing or repairing all of its damaged public facilities, request a grant for 90 percent of what they would otherwise receive, and then elect to restore selected facilities or to construct new, more urgently needed, public facilities in the disaster area. But to have the flexibility to replace one destroyed obsolete facility with a new more urgently needed facility the applicant is required to incur a financial penalty on *all* facilities to be replaced. Section 14 of the bill permits an applicant to receive flexible funding on an individual facility without having to incur a penalty on other facilities which will be replaced.

PREPAREDNESS GRANTS

To improve preparedness, planning grants are increased from up to $25,000 to up to $50,000. To be eligible for the increased Federal grant the States must contribute an equivalent amount. It is expected that improved planning and preparedness will result in a more effective and efficient response which could ameliorate losses in a disaster or emergency and thereby reduce suffering as well as expenditures at all levels of government. The savings could far outweigh the added costs of the grants to the Federal Government or of the matching funds to the States.

INDIVIDUAL AND FAMILY GRANT PROGRAM

The Individual and Family Grant Program is administered by the States, with the Federal Government reimbursing the States for 75 percent of the grants. It also reimburses the States for up to 3 percent of the total cost of the grant program for administrative expenses. Actual costs run much higher. Many States cannot process applications and complete the program in a timely manner with this limited reimbursement. Consequently, the program—which is designed to meet essential and necessary expenses of individuals and families—has often been delayed for months.

The bill enables the Federal Government to provide additional reimbursement for one half of the administrative costs exceeding the 3 percent limit, after prompt and efficient program completion has been demonstrated.

HAZARD MITIGATION

The bill directs for the first time that the States include hazard mitigation programs and an evaluation of natural hazards in their disaster plans. It also precludes Federal assistance for repair or replacement of public facilities unless the affected governmental jurisdiction agrees to replacement in compliance with environmental protection, floodplain management and hazard mitigation criteria.

CRIMINAL AND CIVIL PENALTIES AND AUDITS AND INVESTIGATIONS

S. 2250 strengthens existing authorities on criminal and civil penalties and adds specific authority and requirements for audits and investigations.

FEDERAL EMERGENCY MANAGEMENT AGENCY

S. 2250 codifies some authorities of the Federal Emergency Management Agency and gives the agency stautory responsibility for numerous functions authorized by the Act.

The Federal coordinating officer is specifically identified as the President's representative in an emergency or disaster. This recognition should enhance his or her status, function and accountability and should facilitate his or her efficient operation in coordination and overall management of emergency or disaster response efforts.

UNEMPLOYMENT ASSISTANCE

The bill makes unemployment assistance available under this Act consistent with unemployment compensation laws.

CONTRACTORS' RESPONSIBILITIES

S. 2250 adds language to the Act to deny Federal assistance for projects that were under construction at the time of the disaster and which, under contract, are the responsibility of a contractor.

RESOURCE TESTED BENEFIT PROGRAMS

The bill amends the Act to clarify that disaster assistance received by individuals shall not be counted as income in determining eligibility for welfare benefits or other resource tested benefit programs.

SECTION NUMBER CROSS REFERENCE TABLE

Section title	Disaster Relief Act of 1974, Section No.	S. 2250	Major Disaster Relief & Emergency Assistance Act [1] Sec. No.
Title I:			
Findings and Declarations	101	22(1)	101.
Definitions	102	3, 5, 22(2)	102.
Title II:			
Preparedness Program	201	6, 22(16)	201.
Disaster Warnings	202	22(16)	202.
Authorization of Appropriations		6	203.
Title III		22(3)	
Procedures	301	7, 13	(See 401(a), 501.)
Rules and Regulations	302	7, 13	301 (see also 402, 502).
Coordinating Officers	303	8	302.
Emergency Support Teams	304		303.
Emergency Assistance	305	7, 13	(See 402, 502, 503.)
Cooperation of Federal Agencies	306	7, 13	403.
Reimbursement	307		304(a).
Nonliability	308		305.
Performance of Services	309		306.
Local Firms	310	22(5)	307.
Nondiscrimination	311	7, 22(4)	308.
Relief Organizations	312	22(17)	309.
Priority to Certain Applications	313	22(6)	316.
Insurance		9	311(a).
	314	9, 14, 22(7), (8)	311 (b), (c), (d).
Duplication of Benefits	315		312 (a), (b), (c).
		10	312(d).
Reviews and Reports	316	22(9), (16)	313(a).
		11	313(b).
Criminal and Civil Penalties	317	12	(See 318.)
Availability of Materials	318		314.
Recovery of Funds		12	316.
Audits and Investigation		12	317.
Title IV		22(10)	
Federal Facilities	401		404.
Restoration of Public Facilites	402	14	405 (a), (b), (d), (e).
Debris Removal	403	14	406 (a), (b).
Temporary Housing	404	15, 22(11), (12)	407.
Protection of Environment	405	12	315.
Minimum Standards	406		408.
Unemployment Assistance	407	16	409.
Individual and Family Grants	408		410.
	408(b)	17	(See 401(b).)
	408(d)	18	401(d).
Food Coupons	409		411.
Food Commodity	410		412.
Relocation Assistance	411		413.
Legal Services	412		414.
Crisis Counseling	413	20	415.
Community Disaster Loans	414	(22(15))	416.
Emergency Communications	415	22(13)	417.
Emergency Public Transportation	416		418.
Fire Suppression Grants	417		419.
Timber Sole Contracts	418	20	420.
In-Lieu Contribution	419	14	(See 403, 405, 133.)
Title V:			
Economic Recovery	501	4	
Procedures	(See 301)	4	501.
Federal Assistance	(See 302(a), 305(b))	4	502.
Emergency Assistance	(See 305)	4	503.
Title VI:			
Rules, Gifts	601		601.
Technical Amendments	602		602.
Repeal of Existing Law	603		603.
Prior Allocation of Funds	604		604.
Effective Date [1974]	605	22(14)	605.
Authorization Appropriations	606	21	606.
Effective date [1982]		23	

[1] Title change—see sec. 2, S. 2250.

SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE OF THE BILL

"Disaster Relief Act Amendments of 1982"

SECTION 2—SHORT TITLE OF 1974 ACT

Section 2 changes the title of the Act from the "Disaster Relief Act of 1974" to the "Major Disaster Relief and Emergency Assistance Act."

This change reflects the significant amendments to the Act made by this bill whereby two distinct, identifiable and separate programs of assistance are established: (1) programs of response and recovery following disasters (primarily of "natural" origin) are consolidated in title IV and (2) programs of response to save lives and protect public health and property in emergencies are established in a newly written title V. Administration of responses to both major disasters and emergencies is provided in title III.

SECTION 3—DEFINITIONS

Section 3(a) redefines "emergency" to mean any occasion or instance in which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe in any part of the United States. That Federal assistance is *supplemental* to the efforts and resources of State and local governments is a central principle in both the revised definition of "emergency" and in the new Title V, "Federal Emergency Assistance Programs."

Section 3(b) adds a new definition of "Director" which means the Director of the Federal Emergency Management Agency.

The Federal Emergency Management Agency was established in 1979 by Executive Order 12148 as the agency of the Federal Government with authority and responsibility for the coordination of the Government's major disaster relief and emergency assistance efforts. The addition of this definition gives stautory authority to the Federal Emergency Management Agency, which it currently lacks.

References to the Director throughout title II give the agency specific statutory authority for Federal programs and assistance in disaster and emergency planning and preparedness. Similar references to the Director are made in other sections of the Act as amended by this bill, but all declaration authorities remain with the President.

SECTION 4—FEDERAL EMERGENCY ASSISTANCE PROGRAMS

Title V of the Disaster Relief Act of 1974 added a new title VIII to the Public Works and Economic Development Act of 1965. Section 4

of the bill repeals title VIII of that Act and amends title V of the Disaster Relief Act of 1974 to add a new title, "Federal Emergency Assistance Programs."

The new title V is comprised of three sections. Section 501 provides emergency declaration procedures. Section 502 gives the President authority (1) to direct any Federal agencies to do work under their own authorities, without reimbursement, (2) to coordinate all Federal agencies and voluntary relief organizations providing emergency assistance, (3) to coordinate emergency assistance with State and local officials, and (4) to provide technical and advisory assistance to State and local governments. Section 503 provides authority to the President to provide direct emergency assistance within stated limitations.

The new title V provides an entirely separate set of authorities for use in a Presidentially-declared "emergency." Authorities available for use in a "major disaster" are established exclusively in title IV as amended by this bill.

While title IV includes provisions for both emergency work and permanent restorative work, the authorities of title V pertain entirely to emergency work defined as assistance to save lives and protect property, public health and safety and to lessen or avert the threat of a disaster. Title V should be read in conjunction with the new definition of "emergency" made by section 3(a) of this bill.

Under section 501, a declaration that an emergency exists is made by the President upon request of the Governor of the affected State. The Governor's request must be supported by information similar to that required for a request for a declaration of major disaster.

Following a declaration, under authority of section 502, the President may (a) direct any Federal agency to provide emergency assistance under its own authorities and without reimbursement from funds appropriated to carry out this Act; (b) coordinate Federal agency and voluntary relief organization assistance and coordinate with State and local officials; (c) provide technical and advisory assistance to affected State and local governments.

In the event that the assistance provided under section 502 is insufficient to adequately supplement the efforts and resources of State and local governments, the President may provide financial or direct emergency assistance under subsection (c) of section 503, but such funding is limited to no more than $5 million per emergency, except in accordance with subsection (d) of section 503. However, no funds appropriated to carry out the functions of this Act shall be expended on such emergency assistance (except for direction, coordination and technical and advisory assistance under section 502) whenever Federal assistance is available and adequate under other Federal authorities.

Subsection (d) of section 503 provides that the President may determine that additional emergency assistance is required. If such a determination is made, the President may continue to provide needed emergency assistance, but he would be required under the Act to report to the Congress and to propose additional legislation, if necessary, for coping with continued emergency assistance.

The authorities of title V essentially permit the Federal Government t provide assistance to protection life, property and public health in a broad range of incidents. The President may respond to natural and non-natural civil emergencies or act to lessen or avert the threat of a catastrophe where supplemental assistance is required. The Administration may then, in a more deliberate manner, determine whether to provide continuing assistance and, if so, identify the proper authorities under which to provide it. For unusual types of civil emergencies for which adequate assistance does not exist, the Administration and the Congress would have more time to design and enact legislation specifically tailored to the problem.

One type of emergency assistance is temporary housing for those individuals and families who require it. In order to take advantage of the existing program developed for major disasters, temporary housing assistance in emergencies should be in conformity with regulations and guidance applicable to major disaster temporary housing operations.

SECTION 5—DEFINITION OF MAJOR DISASTER

Section 5 amends section 102(2) of the Disaster Relief Act of 1974 by (a) adding the word "natural" between the words "other" and "catastrophe" in the definition of "major disaster" and (b) deleting from the same definition the phrase "above and beyond emergency services by the Federal Government."

Section 5(1) limits those catastrophes for which a Presidential declaration of "major disaster" may be made to the events explicitly listed in the definition and, with respect to catastrophes not expressly identified, only those resulting from natural causes.

Under the Act as amended by this bill, there is additional authority for the Federal Government to provide coordinated supplemental assistance for the purposes of saving lives and protecting property, public health and safety for a broadened range of incidents. This authority is provided with significant limitations, by redefining "emergency" and including a new title V, "Federal Emergency Assistance Programs."

Deletion in section 5(2) of the phrase "above and beyond the emergency services of the Federal Government" in effect permits the President to declare a catastrophe as a "major disaster" when supplemental Federal disaster assistance is required for emergency purposes but without invoking the long range recovery provisions of the Act. Any declaration of a major disaster would continue to be contingent upon satisfying all the other preconditions required by the Act for such a declaration.

SECTION 6—PREPAREDNESS PROGRAMS

Section 6 amends title II of the Disaster Relief Act of 1974 in the following manner:

(1) It eliminates the reference to the Defense Civil Preparedness Agency (an agency whose functions were transferred to the Federal Emergency Management Agency in 1979).

(2) It requires for the first time that the States include natural hazard evaluation and mitigation elements as a part of their State disaster plans when updated and improved with Section 201(d) Federal matching grants.

(3) It increases the Federal matching grant authority from $25,000 to $50,000 for Section 210(d) grants. This increased Federal assistance for planning should facilitate better planning and preparedness, especially in combination with the new provision of hazard mitigation measures. Better planning and preparedness could reduce losses in disasters and expenditures in recovery. This change also assist the States in planning for increased State and local government participation in public assistance and temporary housing. The increase will enable States to improve and update their disaster and emergency plans and facilitate their assumption of a larger role in response and recovery.

(4) Section 6 adds a separate authorization for appropriations for title II (Disaster Preparedness Assistance) activities requiring the separate identification and budget justification of title II expenditures.

Prior to this bill, authorizations of appropriations under sec. 606 of the Act have provided for a single appropriation to the President to carry out the Act, except for administrative expenses. The bill separates appropriations to carry out the Act between preparedness functions under title II and response authorities under the remainder of the Act. This separation of authorizations will ensure the independent identification and budget justification of title II expenditures, a result the Committee strongly endorses.

Consideration of this bill and of appropriations for fiscal year 1983 programs charged to FEMA are proceeding simultaneously in the Senate and the House. This Committee has reviewed the Administration's budget submission for disaster relief and has reported favorably on it to the Budget Committee. The Administration's proposal does not provide for separate appropriations for title II and other expenditures under the Act. However, the Administration did separately identify and support title II costs and thereby complied with the intent of S. 2250.

SECTION 7—CHANGES TO TITLE III

Section 7 makes several changes to title III of the Disaster Relief Act of 1974:

(1) It deletes section 301 of the 1974 Act. Section 301(a) is comparable to the new section 501 while 301(b) is comparable to section 401(a). It deletes section 305 which is comparable to new sections 502 and 503 and deletes section 306 which is comparable to new section 403. These organizational changes are designed to provide separate and distinct titles for major disasters, emergencies, and administration of both.

(2) It deletes the first two sentences of section 302(a), regarding coordination and direction of Federal agencies. Similar authorities are contained in new sections 402 and 502 and section 307 of the Act.

(3) It changes the caption of section 302, "Federal Assistance" to "Rules and Regulations."

(4) It strikes the phrase "or economic status" in the second sentence of section 311(a), the section that addresses nondiscrimination in disaster assistance.

SECTION 8—FEDERAL COORDINATING OFFICER

Section 8 amends section 303 of the Disaster Relief Act (new section 302) (1) to provide by statute for a Federal coordinating officer for an emergency as well as a major disaster, (2) to identify the Federal coordinating officer specifically as the President's representative, and (3) to make the Director or his designee the Federal coordinating officer, unless otherwise directed by the President.

Together, these changes give the Director of the Federal Emergency Management Agency statutory stauts as the Federal Government official having overall responsibility for coordinating, directing and managing response to civil emergencies and the response and recovery efforts in major disasters. Recognition of the coordinating officer's status could facilitate his or her efficient operation, function, and authority.

SECTION 9—INSURANCE

Section 9 adds a new subsection to section 314 of the Act (42 U.S.C. 5154) to encourage States, local governments and eligible private nonprofit organizations to obtain flood insurance, typically through the National Flood Insurance Program, to protect their insurable property against foreseeable flood hazards. It also limits Federal assistance under the Act to such entities not exercising prudent judgment by insuring against loss.

The denial of assistance for an applicant's failure to obtain flood insurance relates only to insurable damage for which compensation could have been received. In other words, an applicant who is penalized would not necessarily lose eligibility for all disaster assistance.

The Disaster Relief Act of 1974 stipulates that State and local governments be encouraged to protect themselves by obtaining insurance to supplement or replace government assistance. However, they are not required to insure against initial losses to property as a prerequisite to receiving disaster relief. Insurance, if available, is required only after a first disaster has occurred. Therefore, in some instances, the Committee has been informed that a deliberate decision has been made by responsible officials not to insure, or to underinsure property.

Section 9 requires that, as a condition for receiving Federal public disaster assistance, State and local governments have in force appropriate flood insurance as is reasonably available. Adequate and necessary to protect against loss of public buildings, facilities and equipment.

The Committee expects the Federal Emergency Management Agency to examine the issue of insurance protection with regard to other types of hazard such as wind, fire and earthquake, and to study insurance requirements as a possible prerequisite for other types of assistance. The Committee will consider in the future any legislative proposals to extend this insurance requirement to other forms of insurance and types of assistance.

SECTION 10—DUPLICATION OF BENEFITS

Section 10 amends section 315 of the Disaster Relief Act (new section 312) by adding a new subsection (d) in order to provide that Federal and other disaster assistance shall not be considered as income or

resources in the determination of eligibility for other federally-funded income assistance or resource tested benefit programs.

This revision precludes any reduction in benefits to individuals and families for federally-supported unemployment assistance or welfare assistance as a result of their receipt of disaster assistance.

SECTION 11—REPORTS TO CONGRESS

Section 11 adds a new subsection (b) to section 316 of the Disaster Relief Act of 1974 (new section 313) to require that the Director report to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on each emergency and major disaster that the President has declared. Such reports shall consist of notification to each Committee of each major disaster or emergency that the President has declared as soon as practical following such declarations. Periodically, thereafter, the Director shall provide a report of Federal activities in major disasters and emergencies as requested by the Committees.

SECTION 12—ADMINISTRATIVE PROVISIONS

Section 12 makes several changes to the Disaster Relief Act of 1974:

(1) It adds a new section 316 to give the Attorney General express authority to institue actions in United States District Courts to recover disaser assistance expenditures. The Supreme Court in footnote 16 to the opinion in *Wyandotte Transportation Co. et al.* v. *United States*, 389 U.S. 191 (1967), stated that the then current disaster relief legislation, 42 U.S.C. 1855–1855g (a predecessor act to the Disaster Relief Act of 1974) contained no authority to sue for recovery of disaster relief expenditures. Sec. 316 would overcome opposition to an action instituted by the Attorney General based on the *Wyandotte* footnote. Jurisdiction in District Courts would be expressly provided by 28 U.S.C. 1345.

Sec. 316, however, adds no new legal responsibilities for potential defendants. Any action brought under this section must be based on separate legal requirements such as those imposed by Federal or State statutees or regulations or common law (tort or contract, including a Federal-State Disaster Assistance Agreement). The applicable standard of care shall be derived from such separate legal requirements. This section, by itself, does not impose strict liability or any other standard of care. It would be a matter of judicial discretion to fashion appropriate relief in addition to the repayment of Federal funds.

(2) It adds a new section 317 to the Act to give the Director of the Federal Emergency Management Agency express authority to audit and investigate, to require audits by State and local governments, and to examine the financial records of any person or entity relating to disaster assistance.

Subsection (a) is similar to a provision in the Labor-Management Reporting and Disclosure Act of 1959, as amended. Subsection (c) is identical to provisions in several statutes and the regulations of several agencies, including the Federal Emergency Management Agency.

(3) It renumbers section 317, "Criminal and Civil Penalties", as new section 318 and expands upon this section.

Subsections (a), (b), and (c) and (d) are similar to provisions of section 317 of the 1974 Act. Subsections (e) and (f), providing enforcement mechanisms, are new. Subsection (g), also new, is based on a similar provision in the Inspector General Act.

Section 318 expands on the civil and criminal sanctions of section 317 of the 1974 Act by providing for a misdemeanor penalty for false statements which could be used in lieu of the harsher felony provisions of the U.S. Criminal Code. It also provides a mechanism by which penalties can be imposed by regulation issued by the Director, as well as injunctive relief authority. New Subsections are based for the most part on existing and tested authorities of the Federal statutes.

(4) It would move section 405, "Protection of Environment," from title IV of the 1974 Act to title III of the Act as amended by this legislation. This change is an organizational revision in order to consolidate major disaster relief programs under title IV, emergency assistance programs under title V, and the administration of both programs under title III.

SECTION 13—MAJOR DISASTER ASSISTANCE

Section 13 makes several organizational and substantive changes to title IV of the Disaster Relief Act of 1974. The new section 401(a), dealing with the declaration process for major disasters, is similar to section 301(b) of the 1974 Act and is an organizational change designed to reorganized all major disaster assistance programs in title IV.

In accordance with the parenthetical clause in section 401(a), a State commitment must constitute a "significant proportion" of the total commitment of State and local governments combined. The determination of whether the State commitment constitutes a "significant proportion" shall be made on a case-by-case basis. The determination shall be based on whether the State commitment is a substantial part of the overall State and local resources applied to the disaster recovery effort. It shall also be based on whether, given the resources available to the State, the Governor's commitment is adequate to demonstrate sincerity in requesting supplemental Federal disaster assistance.

The new section 401(b) authorized loans or advances of funds to State and local governments for their share of assistance which is provided on a cost-sharing basis. Any such loan or advance is to be repaid to the United States but shall be interest free for two years from the date of the disaster declaration. Thereafter, such obligations shall bear interest equivalent to the cost of borrowing to the Treasury.

The new section 401(b) imposes stricter standards for the advance or loan of the State and local share of grants made under section 405, dealing with permanent restorative work of public facilities than for grants made under new sections 406 (debris removal) and 410 (Individual and Family Grants).

The new section 402 is drawn from sections 302(a) and 305(b) of the 1974 Act. It authorizes the President to direct other Federal agencies to provide assistance under their own authorities and without reimbursement, to coordinate Federal assistance and to coordinate

with State and local governments, and to provide technical and advisory assistance.

The new section 403, with some changes in subsection (a)(4), is a recodification of section 306 of the Act. It authorizes the provision of emergency assistance, under this Act, following a major disaster declaration.

Section 403(b) ensures that all debris removal assistance, whether needed as emergency work or not, would be cost-shared on a 75–25 percent basis.

SECTION 14—REPAIR AND RESTORATION OF DAMAGED FACILITIES

Section 14 amends section 402 (new section 405) and section 403 (new section 406) and deletes section 419 which, in an expanded form, is incorporated in the new sections 405 and 406.

The major elements of section 402 are retained in new section 405: subsection 405(a) deals with the repair, restoration, reconstruction or replacement of public facilities, the definition of which is moved from 402(d) to new 405(a). Subsection (b) continues the eligibility of certain private nonprofit facilities. Subsection 405(c) still requires that permanent restorative work be accomplished in conformity with applicable codes, specifications and standards and adds also that such work shall be in compliance with environmental protection, floodplain management, and hazard mitigation criteria required by the Director of the Federal Emergency Management Agency. Subsection (d) continues the provision of 402(c) relating to projects under construction, except that new 405(d) precludes assistance where, under a contract, the contractor is responsible for disaster related expenses. Subsection (e) retains the flexible funding authority of old section 402(f), except the contribution is limited to 50 percent.

Section 14 imposes a 75 percent limitation on the Federal contribution for permanent restorative work on public facilities, and for debris removal. This change in the statute will help assure the supplemental nature of the Federal aid under the public assistance authorities, a principle component of the Act. The Governor, as a condition for assistance under the Act, is required to certify that the total obligation and expenditures of both State and local governments in response to a major disaster constitute a reasonable commitment. This commitment has always been difficult to ascertain.

Cost sharing by the grantees will also help provide tighter financial controls over planning and construction and help in other ways to reduce long-term project costs. It should also lead to prudent assessments of need for debris removal and permanent restorative work by State and local governments.

The Federal contribution of 75 percent presumes that a nonfederal entity will contribute 25 percent. Any grant, to which the 75 percent limitation applies, is precluded unless there is a 25 percent nonfederal contribution. That is, States and local governments may not simply limit projects to the Federal contribution. Furthermore, the underlying purposes of the cost-sharing provision would be frustrated if an applicant is permitted to receive other Federal funds in order to meet the matching requirement. However, applicants should be able

to apply Federal funds when such funds were provided under general revenue sharing or broad block grant authority. In these latter situations, the applicant would still have to make decisions about where to best expend the funds under its control; this would ensure prudent applications of funds.

Section 14 retains the authority of the President contained in section 402(b) of the 1974 Act whereby assistance may be provided to eligible private nonprofit organizations to help repair or restore facilities damaged in a major disaster, except for the new expressed limitation of Federal participation at 75 percent.

Section 14 also retains the provision of section 402(c) of the 1974 Act, providing that for facilities in the process of construction when damaged or destroyed, the Federal contribution shall be based on the cost of restoring them to their predisaster condition. However, the new provision precludes costs which, under a contract, are the responsibility of a contractor.

Section 14 also amends and renumbers the debris removal assistance authority of section 403 of the 1974 Act (new section 406). As with public facilities, debris removal assistance could be provided on a 75 percent to 25 percent cost-sharing ratio (except for snow removal assistance) regardless of whether the assistance is in the form of grants or direct Federal assistance.

Section 14 retains, in amended form, the "flexible funding" provisions of section 402(f) of the 1974 Act. Under the renumbered 405(e), three changes are made in this program. First, Federal participation is at the rate of 50 percent. Second, this flexible funding option is available for individual projects, rather than restricted to all projects of an applicant taken together. Third, this option is not available for "small" projects.

Section 14(b) repeals section 419 of the 1974 Act; however, it is reinstated in an expanded form. Section 419 authorizes the President to make grant payments based on the estimated cost of repairing damaged facilities whenever the cumulative estimated costs for all projects belonging to a particular applicant did not exceed $25,000. Section 14 permits grants for the estimated cost of repairing each individual "small" project. This expansion of grants for small projects will reduce the burden of administrative costs and delays for small projects. It is estimated that approximately 90 percent of all projects processed, representing less than 10 percent of all funds expended, could be included under this new small project grant mechanism. The Federal Emergency Management Agency elsewhere in this bill is given authority to perform inspections and audits on particular projects when needed to ensure the integrity of applicable programs, but detailed audits or final inspections of work completed is not routinely required for small projects.

The small project grant mechanism is incorporated into the bill by permitting contributions based on the estimated costs rather than actual costs of restoration. For "large" projects, contributions are limited to 75 percent of the net eligible cost, but for "small" projects contributions are based on the estimate of the net eligible cost of repairs or restoration. The distinction is that grants can be based on the

estimate rather than having to resort to inspections and audits to determine actual costs of restoration for small projects. Small project grants must be utilized to restore or replace the damaged or destroyed public facility for which the grant was given.

Section 14(c) makes provisions for the same project grant mechanism for market debris removal assistance, and similar provisions are made in section 13 for emergency work in a major disaster.

The bill intentionally does not define "small projects" for which the expedited procedure may be applied. The Federal Emergency Management Agency has indicated a ceiling will be established initially at $25.000 per project. The General Accounting Office has suggested this level should be a first step. There are other situations where the grant mechanism may be useful. In some situations net eligible costs cannot be determined. For example, there is the longstanding practice of providing a "grant in lieu" when an applicant, in restoring its capability to continue providing a service, decides to rebuild a larger or better facility. Federal assistance is permitted to the extent necessary to replace only what was lost. The difference must be provided totally by the applicant. The determination of the appropriate Federal grant must necessarily be based on an estimate.

The bill provides that Federal assistance shall be limited to the "net eligible cost" of repairing, restoring or replacing public facilities or of debris removal. There are extraordinary circumstances when certain costs should not be reimbursed. A State or local government may elect to replicate a facility using techniques or materials which are obsolete, no longer cost effective, and are not important to the function or capacity of the facility. For example, replacement of a copper roof, or marble facade, or interior murals or other ornamentation are not essential to function or capacity and should not be eligible. Assistance may also be denied for a facility which has been subjected to frequent, repetitive heavy damages after an applicant has deliberately failed to take simple hazard mitigation measures. These and some other limitations are reasonable and necessary. All such examples cannot be foreseen and identified in legislation; thus some latitude must be provided in the statute.

The Committee is greatly concerned that current regulations and criteria defining what are and what are not "eligible costs" are themselves confused, inconsistent and sometimes capricious. Some decisions appear to be ad hoc.

For example, the Committee has found that while single jacketed fire hoses are not eligible for reimbursement for cleanup, a double jacketed hose meets the criteria set forth in the FEMA fire hose policy. In one instance brooms were ruled eligible but shovels were ineligible. In yet another, debris was removed from a golf course but could not be removed from the grass in a cemetery. These cost-eligibility criteria have grown over the years and should be thoroughly reviewed and revised.

The Committee expects that, generally, expenses associated with emergency, cleanup, or recovery efforts to restore services, function and utility, or capacity should be eligible costs.

The Committee recognizes that when 100 percent Federal assistance for public facilities and debris removal was available there had to be

strict regulations and policy guidance limiting the types and amount of Federally reimbursable expenses. There was little incentive on the part of some nonfederal jurisdictions to be prudent in their demands. This is a principle argument why there should be cost sharing by applicants for Federal assistance. If the cost-sharing provisions of this bill are enacted the Committee expects FEMA to review its cost-eligibility criteria in light of the new cost-sharing requirements. In this endeavor, FEMA should consider the views of State and local government officials who have dealt with disasters in their own jurisdictions. The Committee will follow this matter carefully.

SECTION 15—TEMPORARY HOUSING

Section 15 amends section 407 of the Disaster Relief Act of 1974 in several respects:

(1) It eliminates the automatic one-year rent-free period for temporary housing. Housing shall be based upon ability to pay.

(2) Temporary housing is only to be provided when adequate, alternate housing is unavailable.

(3) Explicit authority is provided for administration of temporary housing programs by State and local governments and for the Federal Government to reimburse 100 percent of the eligible costs incurred.

The change authorizing contributions to State or local governments for the purpose of providing temporary housing would make explicit that FEMA, in addition to being authorized to provide such assistance directly, has the option of providing assistance through other Federal agencies or through State or local governments which are willing and able to assume the responsibility. The determination of which mechanism is best is within the President's discretion, as assuming the authority of this section is delegated to FEMA, within the sole discretion of FEMA. However, no State or local government shall be required to assume responsibility for the temporary housing program unwillingly.

(4) Federal operational and financial responsibility for temporary housing shall not exceed 18 months unless the President determines that due to extraordinary circumstances it would be in the public interest to extend this period.

SECTION 16—UNEMPLOYMENT ASSISTANCE

Section 16 replaces section 407 of the Disaster Relief Act of 1974 with a new section 409 which still addresses major disaster unemployment assistance. The new section eliminates eligibility for unemployment assistance when the applicant is otherwise eligible for such assistance under authority of any other Federal or State act. It also limits the duration of assistance to 26 weeks.

Disaster unemployment assistance is not available to supplement week-by-week benefits received from any other unemployment compensation program under Federal or State statutes. This assistance is also unavailable to provide benefits during any waiting week period under those programs. Finally, disaster unemployment assistance would not be available following the expiration of an individual's eligibility for unemployment assistance under another program.

SECTION 17—ADVANCE OF STATE'S SHARE

Section 17 deletes the second sentence of section 408(b) of the Disaster Relief Act of 1974. This sentence provides authority to the President to advance a State's 25 percent cost share for the Individual and Family Grant Program when such State is unable immediately to pay its share. Under the deleted provision, such State is to repay such advance to the United States when able to do so.

This authority to advance the State's share of the Individual and Family Grant Program is reinstated in section 13 of this legislation (new section 401(b) of the "Major Disaster Relief and Emergency Assistance Act"). It is joined there with the authority to advance or loan the State and local share of public assistance funding.

SECTION 18—INDIVIDUAL AND FAMILY GRANT PROGRAM

Section 18 amends section 408(d) of the Disaster Relief Act of 1974 to permit reimbursement of 50 percent of the State's administrative expenses for the Individual and Family Grant Program in excess of the currently reimbursed 3 percent of the Federal grant. Such extra reimbursement would be contingent on the State's completing all grants to eligible individuals and families within the period prescribed by the President, or by the Federal Emergency Management Agency if administration of this section is delegated to FEMA.

The purpose of the Individual and Family Grant Program is to meet necessary expenses and serious needs. Delay of weeks or months in determining eligibility for assistance is contrary to the purpose of the assistance. Historically, in most cases 90 percent of applications for assistance under this program are received within the first 60 days. Yet only 3 percent of the programs are completed within 180 days. More efficient delivery of assistance is essential.

One problem with current administration is that the 3 percent reimbursement to States is inadequate to cover administrative costs and many States are therefore reluctant to staff programs with an adequate number of people to process applications rapidly. Overall, States are actually receiving only 15 percent of their reported administrative costs.

SECTION 19—CRISIS COUNSELING

Section 19 deletes the parenthetical phrase "through the National Institute of Mental Health" from section 413 of the Disaster Relief Act of 1974, regarding crisis counseling assistance and training.

This deletion is made without prejudice to the National Institute of Mental Health or to the continuation of the Institute's work and services in major disasters. The assistance and expertise of NIMH may still be utilized. The purpose of the amendment is to eliminate the restrictive requirement that professional counseling services must be administered solely through the National Institute of Mental Health. The change will facilitate the participation of other crisis counseling organizations when appropriate. State and local organizations with expertise in this field exist and should be duly recognized.

SECTION 20—TIMBER SALE CONTRACTS

Section 20 deletes subsection (d) from section 418 of the Disaster Relief Act of 1974 which authorizes grants to State and local governments for the removal of disaster-damaged timber from privately-owned lands.

SECTION 21—MONETARY AUTHORIZATIONS

Section 21 amends section 606 of the Disaster Relief Act of 1974 to authorize $325 million to the President for fiscal year 1983 to carry out the purposes and programs of the Act and to the Federal Emergency Management Agency $6,108,000 for administrative expenses for fiscal year 1983.

SECTION 22—MISCELLANEOUS AMENDMENTS

Section 22 makes numerous changes to the Disaster Relief Act of 1974, many of them conforming amendments.

(1) the "Findings and Declarations" of section 101 are amended by deleting paragraph (7) of subsection (b) which states that one of the intentions of the Congress is to provide an orderly and continuing means of Federal assistance to State and local governments in carrying out their responsibilities to alleviate disaster-caused suffering and damage by establishing a long-range economic recovery program for major disaster areas.

(2) "The Canal Zone" is deleted from the definitions of "United States" and "State" in sections 102(3) and 102(4), respectively.

(3) The caption of title III of the Act is changed from "Disaster Assistance Administration" to "Major Disaster Relief and Emergency Assistance Addministration."

(4) The phrase "section 402 or 404 of" is deleted from section 311(b). The amendment has the effect of stating that Governmental bodies and other organizations are required to comply with regulations relating to nondiscrimination, or other regulations, as a condition of receiving *any* assistance under this Act instead of receiving specifically public assistance and housing assistance.

(5) Section 310 of the 1974 Act gives preference in the expenditure of certain Federal funds to those firms, organizations, and individuals residing or doing business primarily in the area affected by a major disaster. This legislation extends such treatment in emergencies as well as major disasters.

(6) Section 313(h) is amended by deleting the phrase "in which a Recovery Planning Council has been designated pursuant to title VIII of the Public Works and Economic Development Act of 1965."

(7) Section 314 (42 U.S.C. 5154) is amended by deleting the phrase "or section 803 of the Public Works and Economic Development Act of 1965" in subsections (a), (b) and (c).

(8) Section 314 (42 U.S.C. 5154) is amended by deleting "402" each place it appears and inserting in lieu thereof "405." These are conforming amendments. Under this bill, section 402 of the Act becomes new section 405.

(9) Section 316 of the Act (42 U.S.C. 5156) is amended to provide for annual reviews of the activities of Federal agencies and of State and local governments providing emergency preparedness and assistance.

(10) The caption to title IV of the Disaster Relief Act of 1974 (42 USC. 5171–5189) is changed from "Federal Disaster Assistance Programs" to "Federal Major Disaster Assistance Programs."

(11) The words "in emergencies or in major disasters" are deleted from section 404(d) of the 1974 Act (42 U.S.C. 5174).

(12) Section 404(d)(2) of the Act (42 U.S.C. 5174) is amended by changing "311" to "308" in order that this section number will conform with an amendment made elsewhere in this legislation.

(13) Section 415 of the Act (42 U.S.C. 5185)—dealing with emergency communications—is amended by deleting the phrase "an emergency or." If emergency communications are required in an emergency, as part of the Federal supplemental assistance to save lives, and protect property, public health and safety, assistance for emergency communications would be authorized by the general emergency assistance authority of title V of this legislation. Reference to communications in emergencies is not needed in section 415. Title IV contains the program authorities for major disasters while title V is expressly for emergency assistance.

(14) A conforming amendment is made to section 605 (42 U.S.C. 5121) by deleting "408" and inserting in lieu thereof "410."

(15) A conforming amendment is made to subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 (Public Law 92–512; 86 Stat. 919) by striking "301" and inserting in lieu thereof "401."

(16) Title II and section 316 of the Disaster Relief Act of 1974 are amended by substituting the word "Director" for the word "President." The changes to title II could facilitate the recognition of the Director as the Federal official responsible for the coordination of overall Federal civil emergency preparedness and response. These changes to title II, however, do not have the effect of authorizing new preparedness grants to States under section 201(c).

(17) Section 312(a) (42 U.S.C. 5152) is amended by substituting "Federal coordinating officer" for "President." This subsection deals with the use and coordination of private relief organizations.

SECTION 23—EFFECTIVE DATE

Section 23 provides that this Act shall be effective 60 days after enactment, except that disasters and emergencies declared by the President prior to such date shall continue to operate under the authorities of the Act as unamended by this legislation.

HEARINGS

In July 1981, the Subcommittee on Regional and Community Development held two days of oversight hearings on the Disaster Relief Act of 1974 (P.L. 93–288). These hearings focused on concerns of the Committee and bills pending before the Committee at that time. Specifi-

cally, legislative proposals on which testimony was received were S. 1216 and 1217.

Testimony was received from the Federal Emergency Management Agency, the General Accounting Office, the National Governors Association, the National Emergency Management Association, the American Red Cross, and the American Library Association.

In April 1982, the Subcommittee on Regional and Community Development held hearings on S. 2250, receiving testimony from the Federal Emergency Management Agency on the specifics of this bill. Testimony was also heard on the bill from the General Accounting Office, the National Governors Association and the National Emergency Management Association. In addition, testimony from numerous states, other interested groups and individuals was received in writing for the record.

Rollcall Votes During Committee Consideration

Section 133 of the Legislative Reorganization Act of 1970 requires that any rollcall votes be announced in reports accompanying legislation. During the committee's consideration of this measure, amendments were adopted by unanimous voice vote. One rollcall vote was taken on reporting the bill as amended. The Committee ordered the bill favorably reported by a vote of 11 to 0.

Cost of the Legislation

Section 11(a) of rule XXVI of the Standing Rules of the Senate requires publication of the committee's estimate of the cost of reported legislation, together with estimates prepared by any Federal agency.

S. 2250, as amended, authorizes to be appropriated $325,000,000 in fiscal year 1983 for the programs of this Act and $6,108,000 for administration in fiscal year 1983. It also authorizes to be appropriated such sums as may be necessary for title II of the Act, "Disaster Preparedness Assistance," for fiscal year 1983.

Section 403 of the Congressional Budget and Impoundment Control Act requires that an estimate of the cost of the bill as reported be prepared by the Congressional Budget Office. That estimate follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 27, 1982.

Hon. Robert T. Stafford,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2250, the Disaster Relief Act Amedments of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2250.
2. Bill title: Disaster Relief Act Amendments of 1982.
3. Bill status: As amended and ordered reported by the Senate Committee on Environment and Public Works, May 13, 1982.
4. Bill purpose: In addition to making substantive changes to laws governing the federal role in disaster relief assistance, the bill authorizes funds for fiscal year 1983 for disaster relief activities first authorized by the Disaster Relief Act of 1974. The bill also increases the federal government's annual assistance to states for disaster preparedness programs to $50,000 for each state, an increase of $25,000 per state from currently authorized levels.
5. Cost estimate:

	Millions
Estimated authorization levels:	
Fiscal year:	
1983	$332.5
1984	1.4
1985	1.4
1986	------
1987	------
Estimated outlays:	
Fiscal year:	
1983	39.4
1984	164.5
1985	98.9
1986	32.5
1987	-----

The costs of this bill fall within budget function 450.

6. Basis of estimate: For the purpose of this estimate, it has been assumed that all funds authorized would be appropriated at the start of each fiscal year, and that the funds would be spent at rates similar to recent experience for the program. The $325 million in budget authority for fiscal year 1983 requested by the President and specifically authorized by this bill is approximately $200 million below the level estimated by CBO and the Federal Emergency Management Agency to be needed in fiscal year 1983. Unobligated balances from previous years' appropriations are available to make up this shortfall in 1983.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Linwood T. Lloyd.
10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

EVALUATION OF REGULATORY IMPACT

In compliance with paragraph 11(b)(1) of Rule XXVI of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the bill. The Committee believes that this legislation will cause no significant change in regulatory activity by the Federal Government, or by private business.

The reported bill reduces the paperwork of the Federal, State and local governments, and it will result in lower administrative costs and fewer delays.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

DISASTER RELIEF ACT OF 1974, AS AMENDED

(Public Law 93–288; 42 U.S.C. 5121–5202)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the [“Disaster Relief] “*Major Disaster Relief and Emergency Assistance Act* [of 1974]”.

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

FINDINGS AND DECLARATIONS

SEC. 101. (a) The Congress hereby finds and declares that—

(1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing disaster relief programs;

(2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;

(3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;

(5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations; *and*

(6) providing Federal assistance programs for both public and private losses sustained in disasters. [and]

[(7) providing a long-range economic recovery program for major areas.]

DEFINITIONS

SEC. 102. As used in this Act—

[(1) "Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.]

(1) "Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe in any part of the United States.

(2) "Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other *natural* catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act [, above and beyond emergency services by the Federal Government,] to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, [the Canal Zone,] and the Trust Territory of the Pacific Islands.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, [the Canal Zone,] or the Trust Territory of the Pacific Islands.

(5) "Governor" means the chief executive of any State.

(6) "Local government" means (A) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(7) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(8) "Director" means the Director of the Federal Emergency Management Agency.

TITLE II—DISASTER PREPAREDNESS ASSISTANCE

FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS

SEC. 201. (a) The [President] *Director* is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies [(including the Defense Civil Preparedness Agency)] and includes—

(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

(2) training and exercises;

(3) postdisaster critiques and evaluations;

(4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) The [President] *Director* shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damaged or destroyed public and private facilities.

(c) Upon application by a State, the [President] *Director* is authorized to make grants, not to exceed in the aggregate to such State $250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from the date of enactment of this Act. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the [President] *Director*, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.

(d) The [President] *Director* is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, *including evaluations of natural hazards and development of the programs to mitigate such hazards*, except that no such grant shall exceed [$25,000] *$50,000* per annum to any State.

DISASTER WARNINGS

SEC. 202. (a) The [President] *Director* shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) The [President] *Director* shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.

(c) The [President] *Director* is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c)), or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

(d) The [President] *Director* is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

AUTHORIZATION OF APPROPRIATIONS

SEC. 203. There is authorized to be appropriated to the Federal Emergency Management Agency such sums as may be necessary to carry out the purposes of this title through the close of September 30, 1983.

TITLE III—[DISASTER] *MAJOR DISASTER RELIEF AND EMERGENCY* ASSISTANCE ADMINISTRATION

[PROCEDURES

[SEC. 301. (a) All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may determine that an emergency exists which warrants Federal assistance.

[(b) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster. Based upon such Governor's request, the President may declare that a major disaster exists, or that an emergency exists.]

[FEDERAL ASSISTANCE] *RULES AND REGULATIONS*

SEC. [302.] *301.* (a) [In the interest of providing maximum mobilization of Federal assistance under this Act, the President shall coordinate, in such manner as he may determine, the activities of all Fed-

eral agencies providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and other resources including managerial and technical services in support of State and local disaster efforts.] The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(b) Any Federal agency charged with the administration of a Federal assistance program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

(c) Notwithstanding any other provision of law, any repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be considered an emergency conservation measure eligible for payments under chapter I of the Third Supplemental Appropriation Act, 1957, or any other provision of law.

COORDINATING OFFICERS

SEC. [303] *302.* [(a) Immediately upon his declaration of a major disaster, the President shall appoint a Federal coordinating officer to operate in the affected area.] *(a) Unless otherwise directed by the President, following the declaration of an emergency or a major disaster, the Director or his designee shall become the Federal coordinating officer to operate in the affected area. The Federal coordinating officer shall represent the President in coordinating the emergency or the major disaster response and recovery effort.*

(b) In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall—

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field officers as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) When the President determines assistance under this Act is necessary, he shall request that the Governor of the affected State des-

ignate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

EMERGENCY SUPPORT TEAMS

SEC. [304] *303*. The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

[EMERGENCY ASSISTANCE

[SEC. 305. (a) In any emergency, the President may provide assistance to save lives and protect property and public health and safety.

[(b) The President may provide such emergency assistance by directing Federal agencies to provide technical assistance and advisory personnel to the affected State to assist the State and local governments in—

[(1) the performance of essential community services; warning of further risks and hazards; public information and assistance in health and safety measures; technical advice on management and control; and reduction of immediate threats to public health and safety; and

[(2) the distribution of medicine, food, and other consumable supplies, or emergency assistance.

[(c) In addition, in any emergency, the President is authorized to provide such other assistance under this Act as the President deems appropriate.

[COOPERATION OF FEDERAL AGENCIES IN RENDERING DISASTER ASSISTANCE

[SEC. 306. (a) In any major disaster or emergency, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

[(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

[(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies; or emergency assistance;

[(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act; and

[(4) performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; demolition of unsafe structures that endanger the public; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph.

[(b) Work performed under this section shall not preclude additional Federal assistance under any other section of this Act.]

REIMBURSEMENT

SEC. [307] *304.* Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this Act shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

NONLIABILITY

SEC. [308] *305.* The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this Act.

PERFORMANCE OF SERVICES

SEC. [309] *306.* (a) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) In performing any services under this Act, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. [310] *307*. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other *emergency* or major disaster assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such *emergency* or major disaster.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. [311] *308*. (a) The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, *or* age. [or economic status]

(b) As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under [section 402 or 404 of] this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. [312] *309*. (a) In providing relief and assistance under this Act, the [President] *Federal coordinating officer* may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the [President] *Federal coordinating officer* finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this Act, and such other regulation as the President may require.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

SEC. [313] *310.* (a) In the processing of applications for assistance priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities;

(5) section 306 of the Consolidated Farmers Home Administration Act;

(6) the Public Works and Economic Development Act of 1965, as amended;

(7) the Appalachian Regional Development Act of 1965, as amended; or

(8) title II of the Federal Water Pollution Control Act, as amended.

(b) In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects in major disaster areas. [in which a Recovery Planning Council has been designated pursuant to title VIII of the Public Works and Economic Development Act of 1965.]

INSURANCE

SEC. [314] *311.* (a) *The President shall deny assistance which otherwise could be provided under section 405 of this Act to the extent that damage for which assistance is requested could have been compensated by reasonably available, adequate and necessary flood insurance. A determination concerning the availability, adequacy and necessity of flood insurance shall be made by the President, without regard*

to subsection (b) (2) of this section. The limitations of this subsection shall apply only pursuant to regulations promulgated by the President.

[(a)] (*b*) (1) An applicant for assistance under section [402 or 419] *405* of this Act [or section 803 of the Public Works and Economic Development Act of 1965,] shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary to protect against future loss to such property.

(2) In making his determination with respect to such availability, adequacy and necessity, the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

[(b)] (*c*) No applicant for assistance under section [402 or 419] *405* of this Act [or section 803 of the Public Works and Economic Development Act of 1965,] shall receive such assistance for any property or part thereof for which he has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

[(c)] (*d*) State may elect to act as a self-insurer with respect to any or all of the facilities belonging to it. Such an election, if declared in writing at the time of accepting assistance under section [402 or 419] *405* of this Act [or section 803 of the Public Works and Economic Development Act of 1965,] or subsequently, and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a) of this section. No such self-insurer shall receive assistance under such sections for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.

DUPLICATION OF BENEFITS

SEC. [315] *312*. (a) The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The President shall assure that no person, business concern, or entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the President determines (1) that a person, business concern. or other entity has received assistance under this Act for a

loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

(d) Federal disaster assistance and comparable disaster assistance provided by States, local governments, and disaster assistance organizations to individuals and families shall not be considered as income or a resource when determining eligibility or benefit levels for federally funded income assistance or resource tested benefit programs.

REVIEWS AND REPORTS

SEC. [316] *313.* (a) The [President] *Director* shall conduct annual reviews of the activities of Federal agencies and State and local governments providing *emergency and major* disaster preparedness and assistance, in order to assure maximum coordination and effectiveness of such programs, and shall from time to time report thereon to the Congress.

(b) The Director shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House on each major disaster or emergency that the President has declared.

[CRIMINAL AND CIVIL PENALTIES

[SEC. 317. (a) Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under this Act shall be fined not more than $10,000 or imprisoned for not more than one year or both for each violation.

[(b) Any individual who knowingly violates any order or regulation under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.

[(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.]

AVAILABILITY OF MATERIALS

SEC. [318] *314.* The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities, repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction ma-

terials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

PROTECTION OF ENVIRONMENT

SEC. 315. No action taken or assistance provided pursuant to sections 403, 406, 502 or 503 of this Act, or any assistance provided pursuant to section 405 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act or under any other provision of law.

RECOVERY OF FUNDS

SEC. 316. The Attorney General of the United States is authorized to institute actions in the United States District Court for the district in which an emergency or major disaster occurred, or in such district as otherwise provided by law, against any party whose acts or omissions may in any way have caused or contributed to the damage or hardship for which Federal assistance is provided pursuant to this Act. Upon the showing that an emergency or major disaster or the associated damage or hardship was caused in whole or in part by an act or omission of such party, then such party shall be liable to the United States for the full amount of Federal expenditures made to alleviate the suffering or damage attributable to such act or omission. The authority of this section shall also apply to the recovery of Federal funds expended under the authority of section 419 of this Act for fire suppression.

AUDITS AND INVESTIGATIONS

SEC. 317. (a) The Director, when deemed necessary to assure compliance with any provision of this Act or related regulations, shall conduct audits and investigations and in connection therewith may enter such places and inspect such records and accounts and question such persons as deemed necessary to determine the facts relative thereto.

(b) The Director, when deemed necessary to assure compliance with any provision of this Act or related regulations may require audits by State and local governments in connection with assistance provided under the Act.

(c) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purpose of investigation, audit and examination to any books, documents, papers, and records of any person or entity relating to any activity or program undertaken pursuant to this Act.

CRIMINAL AND CIVIL PENALTIES

SEC. 318. (a) Any person, organization or other entity who knowingly makes a false statement or representation of a material fact,

or who knowingly fails to disclose a material fact, in any application or other document in connection with a request for assistance under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports or statements upon which such request for assistance is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

(b) Any person, organization or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any bill, invoice, claim or other document requesting reimbursement for work or services performed in connection with assistance provided under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports or statements upon which such request for reimbursement is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.

(d) Whoever knowingly violates any order, rule or regulation issued under this Act shall be subject to a civil penalty of not more than $10,000 for each violation.

(e) Civil penalties provided under this section shall be imposed in accordance with rules and regulations promulgated by the Director pursuant to the authority in section 601 of this Act.

(f) Whenever it shall appear that any person has violated or is about to violate any provision of this Act, including rules and regulations issued and civil penalties imposed, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in the district court of the United States having jurisdiction where the violation occurred or, at the option of the parties, in the United States District Court for the District of Columbia.

(g) The Director, or duly authorized representative of the Director, shall expeditiously refer to the Attorney General of the United States for appropriate action such evidence developed in the performance of functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.

TITLE IV—FEDERAL *MAJOR* DISASTER ASSISTANCE PROGRAMS

PROCEDURES

SEC. 401. (a) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the

extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster, including, but not limited to, the cost-sharing provisions pursuant to sections 405, 406, and 410 of this Act. Based upon such Governor's request, the President may declare that a major disaster exists.

(b) In any case where an eligible applicant (or the State) is unable to assume its financial responsibility under this Act, the President is authorized to lend or advance to the State such 25 per centum share. For purposes of section 405, such loan or advance shall be based upon the occurrence of concurrent, multiple disasters in a given jurisdiction or the extraordinary cost of a major disaster. Any such loan or advance is to be repaid to the United States but shall be interest free for two years from the date of the declaration; thereafter such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States.

FEDERAL ASSISTANCE

SEC. 402. In any major disaster, the President may—

(a) direct any Federal agency without reimbursement to utilize its authorities and the resources granted to it under other Acts including, but not limited to, personnel, equipment, supplies, facilities, and managerial, technical and advisory services in support of State and local assistance efforts;

(b) coordinate all Federal agencies and voluntary relief or disaster assistance, organizations providing disaster assistance, and coordinate disaster assistance with State and local officials; and

(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks and hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

COOPERATION OF FEDERAL AGENCIES IN RENDERING DISASTER ASSISTANCE

SEC. 403. (a) In any major disaster, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act: and

(4) performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control: reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph. Such contributions shall not exceed 100 per centum of the net eligible cost, or for small projects 100 per centum of the Federal estimate of the net eligible cost, of such emergency work or services preformed by State and local governments.

(b) Where debris removal assistance is appropriate under this section it shall be provided in accordance with the terms and conditions of section 406 of this Act.

FEDERAL FACILITIES

SEC. [401.] *404.* (a) The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

REPAIR AND RESTORATION OF DAMAGED FACILITIES

SEC. [402.] *405.* [(a) The President is authorized to make contributions to State or local governments to help repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster.

[(b) The President is also authorized to make grants to help repair, restore, reconstruct, or replace private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged or disabled, and facilities on Indian reservations as defined by the President, which were damaged or destroyed by a major disaster.

[(c) For these facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the grant shall be based on the net costs of restoring such facilities substantially to their predisaster condition.

[(d) For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

[(e) The Federal contribution for grants made under this section shall not exceed 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards.]

(a) The President is authorized to make contributions to State or local governments, to help repair, restore, reconstruct, or replace public facilities belonging to such State or local government which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contributions should be limited to 75 per centum of the net eligible cost, or for small projects 75 per centum of the Federal estimate of the net eligible cost, of repairing, restoring, reconstructing, or replacing such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster and in conformity with current applicable codes, specifications and standards. For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

(b) The President is authorized to make contributions to help repair, restore, reconstruct, or replace eligible private nonprofit facilities which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contributions shall be limited to 75 per centum of the net eligible cost, or for small projects 75 per centum of the Federal estimate of the net eligible cost of repair-

ing, restoring, reconstructing, or replacing such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster and in conformity with current applicable codes, specifications, and standards. For the purposes of this section, "eligible private nonprofit facility" means private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for he aged and disabled, and facilities, on Indian reservations as defined by the President which were damaged or destroyed by a major disaster.

(c) No authority under this section shall be exercised unless the affected State, local government, or eligible private nonprofit organization first agrees that such facility shall be repaired, restored, reconstructed, or replaced in compliance with environmental protection, flood plain management and hazard mitigation criteria required by the Director, and in conformity with applicable codes, specifications and standards.

(d) For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the grant shall be based on the net eligible costs of restoring such facilities substantially to their predisaster condition, provided that the term "net eligible costs" shall not include costs which, under a contract, are the responsibility of a contractor.

[(f)**]** *(e)* In those cases, *except for small projects*, where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection **[**(e)**]** *(a)* of this section, a contribution based on **[**90**]** *50* per centum of the Federal estimate of the **[**total**]** *net eligible* cost of repairing, restoring, reconstructing, or replacing **[**all**]** *such* damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.

DEBRIS REMOVAL

SEC. **[**403.**]** *406.* (a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

(c) Notwithstanding any other provision of law, whether carried out directly through Federal departments, agencies or instrumentalities or through grants to state or local governments, Federal assistance provided under authority of this section shall not exceed 75 per centum of the net eligible costs, or for small projects 75 per centum of the Federal estimate of the net eligible costs, of debris removal.

TEMPORARY HOUSING ASSISTANCE

SEC. [404] *407.* [(a) The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. During the first twelve months of occupancy no rentals shall be established for any such accommodations, and thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.]

(a) (1) The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. Temporary housing assistance shall be provided only when adequate alternate housing is unavailable, unless there is a compelling need to do so because of severe hardship. The assistance to be provided shall be determined by the President based on the fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or other readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.

(2) The President is authorized to make contributions not to exceed 100 per centum of the costs to State or local governments for the purpose of providing temporary housing assistance to those who require

it as a result of a major disaster. Whenever he determines it to be in the public interest, the President is authorized to provide temporary housing assistance by using Federal departments, agencies, or instrumentalities. The Federal financial and operational responsibilities for temporary housing assistance shall not exceed 18 months from the date of a major disaster declaration by the President unless he determines that due to extraordinary circumstances it would be in the public interest to extend the 18-month period.

(b) The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition with minimal repairs. No assistance provided under this section may be used for major reconstruction or rehabilitation of damaged property.

(d) (1) Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

(2) The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section [311] *308* of this Act requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) of this section and to the purposes of providing temporary housing for disaster victims. [in emergencies or in major disasters.]

[PROTECTION OF ENVIRONMENT

[SEC. 405. No action taken or assistance provided pursuant to section 305, 306, or 403 of this Act, or any assistance provided pursuant to section 402 or 419 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act or under any other provision of law.]

MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES

SEC. [460] *408.* As a condition of any disaster loan or grant made under the provisions of this Act, the recipient shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation.

UNEMPLOYMENT ASSISTANCE

SEC. [407] *409.* (a) [The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than one year after the major disaster is declared.] *The President is authorized to provide unemployment assistance to individuals who are unemployed as a result of a major disaster and who are not otherwise eligible for payment of benefits or waiting week credit under authority of any other Federal or State Act. The duration of such benefit assistance shall not exceed twenty-six weeks.* Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) The President is further authorized for the purposes of this Act to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.

INDIVIDUAL AND FAMILY GRANT PROGRAMS

SEC. [408] *410.* (a) The President is authorized to make a grant to a State for the purpose of such State making grants to meet disaster-related necessary expenses or serious needs of individuals or

families adversely affected by a major disaster in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act, or from other means. The Governor of a State shall administer the grant program authorized by this section.

(b) The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an expenses or need and shall be made only on condition that the remaining 2 per centum of such cost is paid to such individuals or family from funds made available by a State. [Where a State is unable immediately to pay its share, the President is authorized to advance to such State such 25 per centum share, and any such advance is to be repaid to the United States when such State is able to do so.] No individual and no family shall receive any grant or grants under this section aggregating more than $5,000 with respect to any one major disaster.

(c) The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants made under this section.

(d) A State may expend not to exceed 3 per centum of any grant made by the President to it under subsection (a) of this section for expenses of administering grants to individuals and families under this section. *Whenever a State demonstrates efficiency by promptly completing all grants to eligible individuals and families within the period prescribed by the President, the State may be reimbursed for 50 per centum of those administrative expenses which exceed 3 per centum of the Federal grant made under subsection (a) of this section.*

(e) This section shall take effect as of April 20, 1973.

FOOD COUPONS AND DISTRIBUTION

SEC. [409] *411.* (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (P.L. 91–671; 81 Stat. 2048) and to make surplus commodities available pursuant to the provisions of this Act.

(b) The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in an area affected by a major disaster.

FOOD COMMODITIES

SEC. [410] *412.* (a) The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for the emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

RELOCATION ASSISTANCE

SEC. [411] *413.* Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

LEGAL SERVICES

SEC. [412] *414.* Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goal of the programs authorized by this Act, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

CRISIS COUNSELING ASSISTANCE AND TRAINING

SEC. [413] *415.* The President is authorized [(through the National Institute of Mental Health)] to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

COMMUNITY DISASTER LOANS

SEC. [414] *416.* The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions. The amount of any such loan shall be based on need, and shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs. Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(b) Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.

(c)(1) Subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 (P.L. 92–512; 86 Stat. 919) is amended by adding at the end thereof the following new section:

"SEC. 145. ENTITLEMENT FACTORS AFFECTED BY MAJOR DISASTERS

"In the administration of this title the Secretary shall disregard any change in data used in determining the entitlement of a State government or a unit of local government for a period of 60 months if that change—

"(1) results from a major disaster determined by the President under section [301] *401* of the Disaster Relief Act of 1974, and

"(2) reduces the amount of the entitlement of that State government or unit of local government.".

(2) The amendment made by this section takes effect on April 1, 1974.

EMERGENCY COMMUNICATIONS

SEC. [415] *417*. The President is authorized during, or in anticipation of, [an emergency or] *a* major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

SEC. [416] *418*. The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

FIRE SUPPRESSION GRANTS

SEC. [417] *419*. The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TIMBER SALE CONTRACTS

SEC. [418] *420*. (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board

feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

[(d) The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.]

[IN-LIEU CONTRIBUTION

[SEC. 419. In any case in which the Federal estimate of the total cost of (1) repairing, restoring, reconstructing, or replacing, under section 402, all damaged or destroyed public facilities owned by a State or local government within its jurisdiction, and (2) emergency assistance under section 306 and debris removed under section 403, is less than $25,000, then on application of a State or local government, the President is authorized to make a contribution to such State or local government under the provisions of this section in lieu of any contribution to such State or local government under section 306, 402, or 403. Such contribution shall be based on 100 per centum of such total estimated cost, which may be expended either to repair, restore, reconstruct, or replace all such damaged or destroyed public facilities, to repair, restore, reconstruct, or replace certain selected damaged or destroyed public facilities, to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area, or to undertake disaster work as authorized in section 306 or 403. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards.]

[TITLE V—ECONOMIC RECOVERY FOR DISASTER AREAS

[AMENDMENT TO PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

[SEC. 501. The Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new title:

["TITLE VIII—ECONOMIC RECOVERY FOR DISASTER AREAS

["PURPOSE OF TITLE

["SEC. 801. (a) It is the purpose of this title to provide assistance for the economic recovery, after the period of emergency aid and replacement of essential facilities and services, of any major disaster area which has suffered a dislocation of its economy of sufficient severity to require (1) assistance in planning for development to replace that lost in the major disaster; (2) continued coordination of assistance available under Federal-aid programs; and (3) continued assistance toward the restoration of the employment base.

["(b) As used in this title, the term 'major disaster' means a major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

["DISASTER RECOVERY PLANNING

["SEC. 802. (a) (1) In the case of any area affected by a major disaster the Governor may request the President for assistance under this title. The Governor, within thirty days after authorization of such assistance by the President, shall designate a Recovery Planning Council for such area or for each part thereof.

["(2) Such Recovery Planning Council shall be composed of not less than five members, a majority of whom shall be local elected officials of political subdivisions within the affected areas, at least one representative of the State, and a representative of the Federal Government appointed by the President in accordance with paragraph (3) of this subsection. During the major disaster, the Federal coordinating officer shall also serve on the Recovery Planning Council.

["(3) The Federal representative on such Recovery Planning Council may be the Chairman of the Federal Regional Council for the affected area, or a member of the Federal Regional Council designated by the Chairman of such Regional Council. The Federal representative on such Recovery Planning Council may be the Federal Cochairman of the Regional Commission established pursuant to title V of this Act, or the Appalachian Regional Development Act of 1965, or his designee, where all of the area affected by a major disaster is within the boundaries of such Commission.

["(4) The Governor may designate an existing multijurisdictional organization as the Recovery Planning Council where such organization complies with paragraph (2) of this subsection with the addition

of State and Federal representatives except that if all or part of an area affected by a major disaster is within the jurisdiction of an existing multijurisdictional organization established under title IV of this Act or title III of the Appalachian Regional Development Act of 1965, such organization, with the addition of State and Federal representatives in accordance with paragraph (2) of this subsection, shall be designated by the Governor as the Recovery Planning Council. In any case in which such title III or IV organization is designated as the Recovery Planning Council under this paragraph, some local elected officials of political subdivisions within the affected areas must be appointed to serve on such Recovery Planning Council. Where possible, the organization designated as the Recovery Planning Council shall be or shall be subsequently designated as the appropriate agency required by section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334) and by the Intergovernmental Cooperation Act of 1968 (P.L. 90–577; 82 Stat. 1098).

["(5) The Recovery Planning Council shall include private citizens as members to the extent feasible, and shall provide for and encourage public participation in its deliberations and decisions.

["(b) The Recovery Planning Council (1) shall review existing plans for the affected area; and (2) may recommend to the Governor and responsible local governments such revisions as it determines necessary for the economic recovery of the area, including the development of new plans and the preparation of a recovery investment plan for the 5-year period following the declaration of the major disaster. The Recovery Planning Council shall accept as one element of the recovery investment plans determinations made under section 402(f) of the Disaster Relief Act of 1974.

["(c)(1) A recovery investment plan prepared by a Recovery Planning Council may recommend the revision, deletion, reprogramming, or additional approval of Federal-aid projects and programs within the area—

["(A) for which application has been made but approval not yet granted;

["(B) for which funds have been obligated or approval granted but construction not yet begun;

["(C) for which funds have been or are scheduled to be apportioned within the five years after the declaration of the disaster;

["(D) which may otherwise be available to the area under any State schedule or revised State schedule of priorities; or

["(E) which may reasonably be anticipated as becoming available under existing programs.

["(2) Upon the recommendation of the Recovery Planning Council and the request of the Governor, any funds for projects or programs identified pursuant to paragraph (1) of this subsection may, to any extent consistent with appropriation Acts, be placed in reserve by the responsible Federal agency for use in accordance with such recommendations. Upon the request of the Governor and with the concurrence of affected local governments, such funds may be transferred to the Recovery Planning Council to be expended in the implementation of the recovery investment plan, except that no such transfer

may be made unless such expenditure is for a project or program for which such funds originally were made available by an appropriation Act.

["PUBLIC WORKS AND DEVELOPMENT FACILITIES GRANTS AND LOANS

["SEC. 803. (a) The President is authorized to provide funds to any Recovery Planning Council for the implementation of a recovery investment plan by public bodies. Such funds may be used—

["(1) to make loans for the acquistion or development of land and improvements for public works, public service, or development facility usage, including the acquisition or development of parks or open spaces, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, and

["(2) to make supplementary grants to increase the Federal share for projects for which funds are reserved pursuant to subsection (c)(2) of section 802 of this Act, or other Federal-aid projects in the affected area.

["(b) Grants and loans under this section may be made to any State, local government, or private or public nonprofit organization representing any area or part thereof affected by a major disaster.

["(c) No supplementary grant shall increase the Federal share of the cost of any project to greater than 90 per centum, except in the case of a grant for the benefit of Indians or Alaska Natives, or in the case of any State or local government which the President determines has exhausted its effective taxing and borrowing capacity.

["(d) Loans under this section shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less 1 per centum per annum.

["(e) Financial assistance under this title shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts therefore customarily performed by them. Such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Commerce finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

["LOAN GUARANTEES

["SEC. 804. The President is authorized to provide funds to Recovery Planning Councils to guarantee loans made to private borrow-

ers by private lending institutions (1) to aid in financing any project within an area affected by a major disaster for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage including the construction of new buildings, and rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings; and (2) for working capital in connection with projects in areas assisted under paragraph (1), upon application of such institution and upon such terms and conditions as the President may prescribe. No such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

[''TECHNICAL ASSISTANCE

[''SEC. 805. (a) In carrying out the purposes of this title the President is authorized to provide technical assistance which would be useful in facilitating economic recovery in areas affected by major disasters. Such assistance shall include project planning and feasibility studies, management, and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic recovery of such areas. Such assistance may be provided by the President directly, through the payment of funds authorized for this title to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

[''(b) The President is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of Recovery Planning Councils designated pursuant to section 802 of this Act. In determining the amount of the non-Federal share of such costs and expenses, the President shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, to assure adequate and effective planning and economical use of funds.

[''AUTHORIZATION OF APPROPRIATIONS

[''SEC. 806. There is authorized to be appropriated not to exceed $250,000,000 to carry out this title.''.]

TITLE V—FEDERAL EMERGENCY ASSISTANCE

PROCEDURES

SEC. 501. All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources

which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. As part of this request, and as a prerequisite to emergency assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. Based upon such Governor's request, the President may declare that an emergency exists.

FEDERAL ASSISTANCE

SEC. 502. In any emergency, the President may—

(a) direct any Federal agency without reimbursement to utilize its authorities and the resources granted to it under other Acts, including but not limited to personnel, equipment, supplies, facilities, and managerial, technical and advisory services in support of State and local emergency assistance efforts to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe;

(b) coordinate all Federal agencies and voluntary relief or disaster assistance organizations providing emergency assistance and coordinate emergency assistance with State and local officials; and

(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks of hazards, public information and assistance in health, and safety measures, management and control, and reduction of immediate threats to public health and safety.

EMERGENCY ASSISTANCE

SEC. 503. (a) In an emergency, when the Federal assistance provided pursuant to section 502 of this Title is inadequate, the President may provide assistance to save lives and protect property, public health and safety, or to lessen or avert the threat of a catastrophe. Where debris removal assistance is appropriate under this section, it shall be provided in accordance with the terms and conditions of section 406 of this Act.

(b) The President, in an emergency, shall not obligate funds appropriated to carry out this Act, other than for purposes of coordination and direction or the provision of technical and advisory assistance, where Federal assistance is available and adequate under other Federal authorities.

(c) In any emergency and except as provided by subsection (d) of this section, the costs of providing emergency assistance under this section shall not exceed $5,000,000 of funds appropriated to carry out this Act.

(d) The limitation of subsection (c) of this section may be exceeded when the President determines that continued emergency assistance is immediately required; that there is a continuing and immediate risk to lives, property, public health or safety; and that necessary assistance will not otherwise be provided on a timely basis. In the event that the limitation of subsection (c) is exceeded, the President shall report to Congress on the nature and extent of the emergency assistance requirements and propose additional legislation if necessary.

TITLE VI—MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS

SEC. 601. (a) The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency or agencies as he may designate.

(b) In furtherance of the purposes of this Act, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.

TECHNICAL AMENDMENTS

SEC. 602. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461(a)(3)(B)(ii)) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as declared by the President pursuant to the Disaster Relief Act of 1974;".

(b) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c (b)(2)) is amended by striking out of the last proviso "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709 (h)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(c) and 301 of the Disaster Relief Act of 1974".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 1715l (f)) is amended by striking out of the last paragraph "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(e) Section 7(a)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as amended; 20 U.S.C. 241–1(a)(1)(A)), is amended by striking out "pursuant to section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "pursuant to sections 102(2) and 301 of the Disaster Relief Act of 1974".

(f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 7589(a)) is amended by striking out "section 102(1) of

the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(h) Section 165(h) of the internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)) is amended by striking out "1970" and inserting in lieu thereof "1974".

(i) Section 5064(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5064(a)), relating to losses caused by disaster, is amended by striking out "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330, as amended by 82 Stat. 1213; 48 U.S.C. 1681 nt.), is amended by striking out of the last sentence "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(l) Section 1820(f) of title 38, United States Code, is amended by striking "the Disaster Assistance Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(m) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744), repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act.

REPEAL OF EXISTING LAW

SEC. 603. The Disaster Relief Act of 1970, as amended (84 Stat. 1744), is hereby repealed, except sections 231, 233, 234, 235, 236, 237, 301, 302, 303. and 304. Notwithstanding such repeal the provisions of the Disaster Relief Act of 1970 shall continue in effect with respect to any major disaster declared prior to the enactment of this Act.

PRIOR ALLOCATION OF FUNDS

SEC. 604. Funds heretofore appropriated and available under Public Laws 91–606, as amended, and 92–385 shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act.

EFFECTIVE DATE

SEC. 605. Except for section [408] *410*, this Act shall take effect as of April 1, 1974.

AUTHORIZATION OF APPROPRIATIONS

SEC. 606. [Except as provided by the amendment made by section 501, there are authorized to be appropriated to the President such sums as may be necessary to carry out this Act through the close of June 30, 1977.] *Except as provided pursuant to section 203 of this Act, there are authorized to be appropriated to the President to carry out this Act $325,000,000 for fiscal year 1983 and to the Federal Emergency Management Agency for administrative expenses $6,108,000 for fiscal year 1983.*

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